

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JUAN CHAVEZ,

Plaintiff,

v.

D. DRUMMONDS, *et al.*,

Defendants.

Case No. 3:21-cv-00366-MMD-WGC

ORDER

On August 18, 2021, this Court issued an order directing Plaintiff Juan Chavez to file a fully complete application to proceed *in forma pauperis* ("IFP Application") or pay the full \$402 filing fee on or before October 18, 2021. (ECF No. 3.) On August 19, 2021, Chavez filed an incomplete IFP Application that did not contain the required financial certificate or inmate account statement for the previous six-month period. (ECF No. 4.) The October 18, 2021, deadline has now expired, and Chavez has not filed a fully complete IFP Application or paid the full \$402 filing fee.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for

1 failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.
2 1986) (affirming dismissal for lack of prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the Court must consider several factors:
5 (1) the public's interest in the expeditious resolution of litigation; (2) the Court's need to
6 manage its docket; (3) the risk of prejudice to Defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
8 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at
9 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
18 the court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
20 at 1424. The Court's order requiring Chavez to file a fully complete IFP Application or pay
21 the full \$402 filing fee on or before October 18, 2021 expressly stated: "It is further ordered
22 that, if Plaintiff does not file a fully complete application to proceed *in forma pauperis* with
23 all three documents or pay the full \$402 filing fee for a civil action on or before October
24 18, 2021, this case will be subject to dismissal without prejudice . . ." (ECF No. 3 at 3.)
25 Thus, Chavez had adequate warning that dismissal would result from noncompliance with
26 the Court's order.

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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Chavez's failure to file a fully complete application to proceed *in forma pauperis* or pay
3 the full \$402 filing fee in compliance with this Court's order dated August 18, 2021. (ECF
4 No. 3.)

5 It is further ordered that Chavez's pending motion (ECF No. 4) is denied as moot.

6 The Clerk of Court is directed to close the case and enter judgment accordingly.
7 No other documents may be filed in this now-closed case.

8 DATED THIS 25th Day of October 2021.

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12 MIRANDA M. DU
13 CHIEF UNITED STATES DISTRICT JUDGE
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